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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 THOMAS W. MCNAMARA,

8 Plaintiff(s),

9 v.

10 WHAMTECH, INC.,

11 Defendant(s).

Case No. 2:18-CV-1336 JCM (CWH)

ORDER

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13 Presently before the court is the matter of *McNamara v. Whamtech, Inc.*, case number
14 2:18-cv-1336-JCM-CWH.

15 On May 3, 2019, plaintiff Thomas W. McNamara filed a notice of settlement in a related
16 case stating that defendant Whamtech, Inc. (“Whamtech”) will pay \$3 million to the monitorship
17 estate. (ECF No. 11, 11-2); *Federal Trade Commission v. AMG Services, Inc., et al.*, case no.
18 2:12-cv-00536-GMN-VCF, ECF No. 1240. On May 16, 2019, the parties filed a status report
19 indicating that Whamtech will complete all payments under the settlement agreement by
20 December 15, 2019. (ECF No. 13). The parties also requested that the court administratively
21 close this case. *Id.*

22 On May 23, 2019, the court administratively closed this case and directed the parties to
23 timely file a stipulation to dismiss this action with prejudice upon completion of Whamtech’s
24 performance under the settlement agreement. (ECF No. 14). On January 9, 2020, the parties
25 filed a joint status report indicating that Whamtech has not complied with the terms of the
26 settlement agreement. (ECF No. 16). Further, the parties indicated that Whamtech would have
27 until January 10, 2020 to cure the default (per the parties’ settlement agreement), and that in the
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1 event Whamtech failed to cure the default, McNamara would be authorized under the settlement
2 agreement to:

- 3 • “File the executed Confession of Judgment in this action, record and execute the same,
4 and begin collection efforts”;
- 5 • “File UCC-1 financing statements to perfect Plaintiff’s security interest in ‘all of
6 Defendant’s right, title and interest in and to all personal property of Defendant,’ and
7 ‘declare all obligations secured hereby immediately due and payable’”; and
- 8 • “Seek Plaintiff’s attorneys’ fees and costs incurred as a result of WhamTech’s default.”

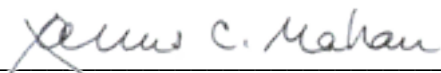
9 On January 30, 2020, McNamara filed the executed confession of judgment with this
10 court. (ECF No. 17). However, the confession of judgment indicates that it must be filed with
11 “an affidavit of counsel for the authorized representative of Plaintiff and setting forth the sum of
12 the Judgment Amount which has not been paid.” *Id.* Such an affidavit has not been filed.

13 The court therefore orders counsel for the authorized representative of McNamara to file,
14 within fourteen (14) days of the date of this order, an affidavit setting forth the sum of the
15 judgment amount which has not been paid.

16 Accordingly,

17 IT IS SO ORDERED.

18 DATED February 18, 2020.

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21 UNITED STATES DISTRICT JUDGE
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